

§ 135.11 Service of notice.

(a) Notice of intent to file suit pursuant to section 1449(a)(1) of the Act shall be served in the following manner upon an alleged violator of any requirement prescribed by or under the Act:

(1) If the alleged violator is an individual or corporation, service of notice shall be accomplished by certified mail, return receipt requested, addressed to, or by personal service upon, such individual or corporation. If a public water system or underground injection well is alleged to be in violation, service shall be upon the owner or operator. A copy of the notice shall be sent by certified mail, return receipt requested, to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred, the chief administrative officer of the responsible state agency (if any), and the Attorney General for the State in which the violation is alleged to have occurred. If the alleged violator is a corporation, a copy of the notice shall also be sent by certified mail, return receipt requested, to the registered agent (if any) of the corporation in the State in which the violation is alleged to have occurred.

(2) If the alleged violator is a State or local agency, service of notice shall be accomplished by certified mail, return receipt requested, addressed to, or by personal service upon, the head of such agency. A copy of the notice shall be sent by certified mail, return receipt requested, to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which the violation is alleged to have occurred, the chief administrative officer of the responsible state agency (if any), and the Attorney General for the State in which the violation is alleged to have occurred.

(3) If the alleged violator is a Federal agency, service of notice shall be accomplished by certified mail, return receipt requested, addressed to, or by personal service upon, the head of the Federal agency. A copy of the notice shall be sent by certified mail, return receipt requested, to the Administrator

of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which the violation is alleged to have occurred, the Attorney General of the United States, the chief administrative officer of the responsible state agency (if any), and the Attorney General for the State in which the violation is alleged to have occurred.

(b) Service of notice of intent to file suit pursuant to section 1449(a)(2) of the Act shall be accomplished by certified mail, return receipt requested, addressed to, or by personal service upon, the Administrator of the Environmental Protection Agency, Washington, DC 20460. A copy of the notice shall be sent by certified mail to the Attorney General of the United States.

(c) Notice given in accordance with the provisions of this subpart shall be deemed to have been given on the date of receipt of service, if served personally. If service was accomplished by mail, the date of receipt will be considered to be the date noted on the return receipt card.

§ 135.12 Contents of notice.

(a) *Violation of standard or requirement.* Notice regarding an alleged violation of any requirement prescribed by or under the Act shall include sufficient information to permit the recipient to identify the specific requirement alleged to have been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the location of the alleged violation, the date or dates of the alleged violation, and the full name, address, and telephone number of the person giving notice.

(b) *Failure to act.* Notice regarding an alleged failure of the Administrator to perform any act or duty under the Act which is not discretionary with the Administrator shall identify the provision of the Act which requires the act or creates the duty, and shall describe with reasonable specificity the action taken or not taken by the Administrator which is alleged to constitute a failure to perform such act or duty, and shall state the full name, address, and telephone number of the person giving notice.

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(c) *Identification of counsel.* All notices shall include the name, address, and telephone number of the legal counsel, if any, representing the person giving notice.

§ 135.13 Timing of notice.

No action may be commenced under section 1449(a)(1) or (a)(2) until the

plaintiff has given each of the appropriate parties sixty days notice of intent to file such an action. Actions concerning injection wells disposing of hazardous waste which allege jurisdiction solely under section 7002(c) of the Resource Conservation and Recovery Act may proceed immediately after notice to the appropriate parties.